

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Lamont Cutner,

Plaintiff,

vs.

Wilson Simmons,

Defendant.

Civil Action No. 6:12-2544-GRA-KFM

REPORT OF MAGISTRATE JUDGE

The plaintiff, a state prisoner proceeding *pro se*, seeks relief pursuant to Title 42, United States Code, Section 1983. This matter is before the court on the plaintiff's motion to voluntarily dismiss his case (doc. 103)

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(A) and Local Civil Rule 73.02(B)(2)(e) DSC, all pretrial matters in cases involving *pro se* litigants are referred to a United States Magistrate Judge for consideration.

On July 15, 2013, the Honorable G. Ross Anderson, Jr., Senior United States District Judge, granted the plaintiff's motion to dismiss defendants Marshal and Harrington from this action (doc. 99). Accordingly, Wilson Simmons is the only remaining defendant.

On August 21, 2013, the plaintiff moved to dismiss this action, stating "I'm writing u this involuntary dismissal to dismiss the federal case c/A 6:12-2544 gra-kfm voluntary so I can file in state court." Defendant Simmons' response to the motion to dismiss was due on September 9, 2013. The defendant has not filed a response.

Wherefore, it is recommended that the plaintiff's motion be granted and this action be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).

IT IS SO RECOMMENDED.



Kevin F. McDonald
United States Magistrate Judge

September 11, 2013
Greenville, South Carolina

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
300 East Washington St, Room 239
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).